

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

v.

HENRY KYLE FRESE,

Defendant.

Case No. 1:19-CR-00304 (LMB)

MOTION TO DELAY SURRENDER AND FOR RE-DESIGNATION

Henry Kyle Frese, by and through undersigned counsel, respectfully moves this Honorable Court to continue the date by which he must self-surrender to the Bureau of Prisons (“BOP”) and to recommend that he be re-designated to a facility closer to his home and family in Philadelphia, Pennsylvania. As grounds for the request, Mr. Frese states as follows:

1. On or about June 18, 2020, this Court sentenced Mr. Frese to serve 30 months in the custody of the BOP. The Court allowed Mr. Frese to remain on his previously ordered conditions of release with the added condition that he must self-surrender as directed by the BOP. Dkt. 59.
2. In its Judgment, and at the request of defense counsel, this Court “strongly recommend[ed] that the Bureau of Prisons waive the public safety factor in making a designation for this defendant, and that the defendant be designated to the camp facility at Allenwood, PA.” *See id.* at 2. Allenwood is a facility that is located near Mr. Frese’s current residence and is near where his siblings reside.
3. The BOP’s Inmate Security Designation and Custody Classification Change Notice

Memorandum, dated September 4, 2019, reads:

The Bureau of Prisons attempts to place each inmate in an institution that is reasonably close to the anticipated release area. *To the extent practicable, placement to the closest facility within 500 driving miles of the release area will be considered reasonable*, subject to bed availability, the prisoner's security designation, the prisoner's programmatic needs, the prisoner's mental and medical health needs, any request made by the prisoner related to faith-based needs, recommendations of the sentencing court, and other security concerns of the Bureau of Prisons.

See Exhibit 1 (emphasis added).

4. Mr. Frese was recently notified that he has been designated to FCI Milan with a self-surrender date of August 20, 2020. FCI Milan is located in Milan, Michigan, and is approximately 567 miles from Mr. Frese's current home and the majority of his family in Philadelphia, PA.
5. Given the distance between FCI Milan and Philadelphia (according to internet estimates it is an eight hour and 36-minute drive without stops), it will be unduly burdensome for Mr. Frese's family to visit with him once the COVID situation subsides. Moreover, the FCI Milan designation is contrary to the BOP's stated policy of attempting to designate inmates to facilities within 500 miles of their anticipated release area.
6. In addition, and in light of Mr. Frese's recent mental health history, which was referenced in materials filed under seal in advance of his sentencing, we respectfully submit that Mr. Frese would benefit from a designation to a closer facility that will allow his family to visit him more frequently once visitation resumes.
7. For that reason, we ask the Court to briefly delay his report date until September 2, 2020 and respectfully ask the Court to enter the attached order recommending that BOP

re-designated Mr. Frese to serve his sentence at FCI Fort Dix, FCI Danbury, or any other suitable BOP facility closer in proximity to Philadelphia, PA.

8. Undersigned counsel contacted Government counsel who indicated that the United States takes no position on defendant's Motion.

WHEREFORE, for the foregoing reasons, it is respectfully requested that this Court grant the above request and enter the attached Order.

Respectfully submitted,

HENRY KYLE FRESE,
By Counsel

/s/ Stuart A. Sears

Stuart A. Sears

VA Bar 71436

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2020, I electronically filed a true copy of the foregoing motion with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all parties.

/s/ Stuart A. Sears

Stuart A. Sears

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